

ORDINANCE 2021-16 (AS AMENDED)

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR, VILLAGE ADMINISTRATOR, AND PLANNING AND ZONING ADMINISTRATOR TO ENTER INTO A REVISED AND RESTATED AGREEMENT WITH WJHOH LLC (WJH LLC) REGARDING EXTENSIONS OF CERTAIN CERTIFICATES OF ZONING COMPLIANCE FOR CONSTRUCTION IN THE GENOA CROSSING SUBDIVISION, AND DECLARING AN EMERGENCY.

WHEREAS, WJH is the owner of twenty-seven (27) parcels of property located in the Genoa Crossing subdivision, which is located within the corporate limits of the Village; and

WHEREAS, WJH intends to construct residential homes or complete the construction of residential homes on each of the twenty-seven parcels it owns in the Genoa Crossing subdivision; and

WHEREAS, in or around January 2019, WJH obtained Certificates of Zoning Compliance for each of the twenty-seven proposed residential homes and paid the five hundred dollar (\$500) Zoning Certificate Application fee for each of the said twenty-seven Certificate of Zoning Compliance Applications; and

WHEREAS, Section 1135.05(b) of the Planning and Zoning Code of the Village of Commercial Point provides that "All Certificates of Zoning Compliance shall be conditional upon the commencement of work within one (1) year of issuance. If the work has not been more than fifty percent (50%) completed within one and one-half (1 ½) years of issuance, the certificate shall expire and be revoked by the Planning and Zoning Administrator"; and

WHEREAS, the Planning and Zoning Administrator informed WJH of its non-compliance with Section 1135.05(b) of the Planning and Zoning Code as to twenty-one properties that were not more than fifty percent (50%) completed by letter dated July 23, 2020; and

WHEREAS, the Planning and Zoning Administrator is authorized by Section 1135.05(c) of the Planning and Zoning Code to require a new Zoning Certificate Application be submitted or to grant an extension to an approved Zoning Certificate Application; and

WHEREAS, the Village and WJH desire to reach a mutually beneficial understanding, confirmed in writing, in order to allow for the twenty-seven residential homes in the Genoa Crossing subdivision to be constructed; and

WHEREAS, the Village desires assurances that the residential construction will be completed in a timely and professional manner.

WHEREAS, on November 16, 2020, the Village Council passed Ordinance 2020-23, which authorized and directed the Mayor, Village Administrator, and Planning and Zoning Administrator to enter into an Agreement with WJH to extend certain Certificates of Zoning Compliance for Construction in the Genoa Crossing Subdivision; and

WHEREAS, WJH, the Mayor, Village Administrator, and Planning and Zoning Administrator entered into said Agreement on or about November 30, 2020 (the "Original Agreement"); and

WHEREAS, on April 28, 2021, WJH requested an extension of the Original Agreement as to seven (7) properties that may not be completed by the deadline of May 31, 2021 as required by the Original Agreement;

WHEREAS, in light of the progress made thus far under the terms of the Original Agreement, the Village Council is willing to extend the Original Agreement as to all twenty-seven (27) properties by ninety (90) days until and including August 29, 2021.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, OHIO THAT:

ORDINANCE 2021-16 (AS AMENDED)

Section 1. The Mayor, Village Administrator, and Planning and Zoning Administrator are hereby authorized and directed to enter into a Revised and Restated Agreement with WJHOH LLC (WJH LLC) for the extension of Certificates of Zoning Compliance for the properties listed in said Agreement under the terms and conditions described in said Agreement in substantially the same form as attached hereto as Exhibit A and incorporated herein by reference.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that result in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. Because work on the properties described in the Agreement attached as Exhibit A to this Ordinance must begin immediately in order to be completed in a reasonable timeline and because the residents of the Genoa Crossing Subdivision deserve to have the twenty-seven properties completed as soon as possible in order to protect the values of their own properties, and because WJHOH LLC (WJH LLC) desires to have prompt assurances that the Certificates of Zoning Compliance for the twenty-seven (27) properties that are the subject of the Original Agreement, this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, peace, and welfare, and shall, therefore, go into effect immediately upon passage.

Vote on Amendment:

Motion by: Laura Wolfe

2nd : Jason Thompson

Roll Call:

Yes Nancy Geiger

Yes Ryan Mitchem

Yes Laura Wolfe

N/A Aaron Grassel

Yes Tracy Joiner

Yes Jason Thompson

Vote on Passage of the Ordinance:

Motion by: Jason Thompson

2nd : Tracy Joiner

Roll Call:

Yes Nancy Geiger

Yes Ryan Mitchem


Yes Laura Wolfe

N/A Aaron Grassel

Yes Tracy Joiner

Yes Jason Thompson

Adopted this 7th day of June, 2021.


Allan D. Goldhardt, Mayor


Wendy Hastings, Fiscal Officer

Approved as to Form:


Joshua Cartee, Village Solicitor

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A

REVISED AND RESTATED AGREEMENT

This Revised and Restated Agreement is hereby entered into between the Village of Commercial Point, Ohio, an Ohio municipal corporation, 10 West Scioto Street, Commercial Point, Ohio 43116 (the "Village" or "Commercial Point"), and WJHOH LLC (WJH LLC) ("WJH"), a Delaware limited liability company licensed and registered to do business in Ohio, with its principal place of business located at 3091 Governors Lake Drive, Suite 300, Atlanta, Georgia 30071, on this _____ day of _____, 2021.

I. RECITALS

WHEREAS, WJH is the owner of twenty-seven (27) parcels of property located in the Genoa Crossing subdivision, which is located within the corporate limits of the Village; and

WHEREAS, WJH intends to construct residential homes or complete the construction of residential homes on each of the twenty-seven parcels it owns in the Genoa Crossing subdivision; and

WHEREAS, in or around January 2019, WJH obtained Certificates of Zoning Compliance for each of the twenty-seven proposed residential homes and paid the five hundred dollar (\$500) Zoning Certificate Application fee for each of the said twenty-seven Certificate of Zoning Compliance Applications; and

WHEREAS, Section 1135.05(b) of the Planning and Zoning Code of the Village of Commercial Point provides that "All Certificates of Zoning Compliance shall be conditional upon the commencement of work within one (1) year of issuance. If the work has not been more than fifty percent (50%) completed within one and one-half (1 ½) years of issuance, the certificate shall expire and be revoked by the Planning and Zoning Administrator"; and

WHEREAS, the Planning and Zoning Administrator informed WJH of its non-compliance with Section 1135.05(b) of the Planning and Zoning Code as to twenty-one properties that were not more than fifty percent (50%) percent by letter dated July 23, 2020; and

WHEREAS, the Planning and Zoning Administrator is authorized by Section 1135.05(c) of the Planning and Zoning Code to require a new Zoning Certificate Application be submitted or to grant an extension to an approved Zoning Certificate Application; and

WHEREAS, the Village and WJH desire to reach a mutually beneficial understanding, confirmed in writing, in order to allow for the twenty-seven residential homes in the Genoa Crossing subdivision to be constructed; and

WHEREAS, the Village desires assurances that the residential construction will be completed in a timely and professional manner.

WHEREAS, on November 16, 2020, the Village Council passed Ordinance 2020-23, which authorized and directed the Mayor, Village Administrator, and Planning and Zoning Administrator to enter into an Agreement with WJH to extend certain Certificates of Zoning Compliance for Construction in the Genoa Crossing Subdivision; and

WHEREAS, WJH, the Mayor, Village Administrator, and Planning and Zoning Administrator entered into said Agreement on or about November 30, 2020 (the "Original Agreement"); and

WHEREAS, on April 28, 2021, WJH requested an extension of the Original Agreement as to seven (7) properties that may not be completed by the deadline of May 31, 2021 as required by the Original Agreement;

WHEREAS, WJH's requested extension of the Original Agreement as to the seven (7) properties until and including June 30, 2021; and

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A (continued)

WHEREAS, in light of the progress made thus far under the terms of the Original Agreement, the Village Council is willing to extend the Original Agreement as to all twenty-seven (27) properties by ninety (90) days until and including August 29, 2021.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the Village and WJH agree as follows:

II. TERMS AND CONDITIONS

1. Extension of Certificates of Zoning Compliance. The Certificates of Zoning Compliance approved for WJH in or around January 2019 for the twenty-seven (27) addresses described below are hereby extended by ninety (90) days until and including August 29, 2021:

- 46 Genoa Circle, Commercial Point, Ohio 43116;
- 48 Genoa Circle, Commercial Point, Ohio 43116;
- 50 Genoa Circle, Commercial Point, Ohio 43116;
- 52 Genoa Circle, Commercial Point, Ohio 43116;
- 54 Genoa Circle, Commercial Point, Ohio 43116;
- 56 Genoa Circle, Commercial Point, Ohio 43116;
- 63 Genoa Circle, Commercial Point, Ohio 43116;

- 310 Genoa Road, Commercial Point, Ohio 43116;
- 316 Genoa Road, Commercial Point, Ohio 43116;
- 323 Genoa Road, Commercial Point, Ohio 43116;
- 324 Genoa Road, Commercial Point, Ohio 43116;
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- 409 Lockbay Road, Commercial Point, Ohio 43116;
- 412 Lockbay Road, Commercial Point, Ohio 43116;
- 428 Lockbay Road, Commercial Point, Ohio 43116;
- 430 Lockbay Road, Commercial Point, Ohio 43116;
- 432 Lockbay Road, Commercial Point, Ohio 43116;

- 29 Parkview Avenue, Commercial Point, Ohio 43116;
- 31 Parkview Avenue, Commercial Point, Ohio 43116;
- 33 Parkview Avenue, Commercial Point, Ohio 43116;
- 37 Parkview Avenue, Commercial Point, Ohio 43116;
- 41 Parkview Avenue, Commercial Point, Ohio 43116;
- 42 Parkview Avenue, Commercial Point, Ohio 43116;

- 30 Waterman Avenue, Commercial Point, Ohio 43116;
- 33 Waterman Avenue, Commercial Point, Ohio, 43116;
- 35 Waterman Avenue, Commercial Point, Ohio 43116;
- 41 Waterman Avenue, Commercial Point, Ohio 43116;
- 42 Waterman Avenue, Commercial Point, Ohio 43116;

2. Performance Bond. WJH has procured a performance bond in favor of the Village in the amount of \$500,000.00 to insure against the costs of any necessary cleanup of the parcels associated with the addresses listed in Section 1. The performance bond shall be effective for twenty-four (24) months from the date it is procured and all premium payments made at the time of procurement by WJH. WJH shall procure and present the performance bond to the Village prior to work commencing on the twenty-one (21) parcels that are not more than fifty percent completed as of the date of the execution of the Original Agreement, which parcels are located at the following addresses:

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A (continued)

- 46 Genoa Circle, Commercial Point, Ohio 43116;
- 48 Genoa Circle, Commercial Point, Ohio 43116;
- 50 Genoa Circle, Commercial Point, Ohio 43116;
- 52 Genoa Circle, Commercial Point, Ohio 43116;
- 54 Genoa Circle, Commercial Point, Ohio 43116;

- 310 Genoa Road, Commercial Point, Ohio 43116;
- 316 Genoa Road, Commercial Point, Ohio 43116;

- 409 Lockbay Road, Commercial Point, Ohio 43116;
- 412 Lockbay Road, Commercial Point, Ohio 43116;
- 428 Lockbay Road, Commercial Point, Ohio 43116;
- 430 Lockbay Road, Commercial Point, Ohio 43116;
- 432 Lockbay Road, Commercial Point, Ohio 43116;

- 29 Parkview Avenue, Commercial Point, Ohio 43116;
- 33 Parkview Avenue, Commercial Point, Ohio 43116;
- 37 Parkview Avenue, Commercial Point, Ohio 43116;
- 41 Parkview Avenue, Commercial Point, Ohio 43116;

- 30 Waterman Avenue, Commercial Point, Ohio 43116;
- 33 Waterman Avenue, Commercial Point, Ohio 43116;
- 35 Waterman Avenue, Commercial Point, Ohio 43116;
- 41 Waterman Avenue, Commercial Point, Ohio 43116; and
- 42 Waterman Avenue, Commercial Point, Ohio 43116.

The Village shall release the performance bond within ten (10) days of receiving notice from WJH that it has obtained certificates of occupancy from the Pickaway County Building Department for each and every of the twenty-seven (27) addresses listed in Section 1. WJH shall provide such notice to the Village, in writing, by certified mail, first-class mail, or e-mail, effective upon receipt, to the following:

Allan D. Goldhardt
Mayor, Village of Commercial Point
10 West Scioto Street
P.O. Box 56
Commercial Point, Ohio 43116
a.goldhardt@commercialpointohio.gov

With a copy to: Joshua Cartee
Solicitor, Village of Commercial Point
Dinsmore & Shohl LLP
191 W. Nationwide Blvd., Suite 300
Columbus, Ohio 43215
joshua.cartee@dinsmore.com

3. Utilities. As a condition for the release of the Performance Bond described in Section 2, WJH shall satisfy each and every requirement for the following properties:

- 46 Genoa Circle, Commercial Point, Ohio 43116;
 - The water curb boxes shall be removed from the center of the lot and a new curb box shall be located in the right-of-way. The water tap shall be used for this lot only.
- 48 Genoa Circle, Commercial Point, Ohio 43116;
 - A new water tap shall be made at the main line, which will require a bore under Alley A.

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A (continued)

- The sanitary sewer cleanout and taps shall be moved into the right-of-way or an easement shall be granted to the Village and used as designed.
- 50 Genoa Circle, Commercial Point, Ohio 43116;
 - A new water tap shall be made at the main line, which will require a bore under Alley A.
 - The sanitary sewer cleanout and taps shall be moved into the right-of-way or an easement shall be granted to the Village and used as designed.
- 52 Genoa Circle, Commercial Point, Ohio 43116:
 - The water curb boxes shall be removed from the center of the lot and a new curb box shall be located in the right-of-way. The water tap shall be used for this lot only.
- 54 Genoa Circle, Commercial Point, Ohio 43116:
 - A new water tap shall be made at the main line, which will require a bore under Alley A.
- 56 Genoa Circle, Commercial Point, Ohio 43116:
 - The water curb boxes shall be removed from the center of the lot and a new curb box shall be located in the right-of-way. The water tap shall be used for this lot only.
- 63 Genoa Circle, Commercial Point, Ohio 43116 (Lot 83)
 - The water curb box shall be moved into the right-of-way.
 - A new sanitary sewer tap shall be made at the man hole at Lot 83.
- 310 Genoa Road, Commercial Point, Ohio 43116 (Lot 52)
 - The water curb box shall be moved to the right-of-way.
 - Verify that sanitary sewer tap is located in the right-of-way. If sanitary sewer tap is located in the right-of-way, no further action with respect to the sanitary sewer tap or line is required.
- 316 Genoa Road, Commercial Point, Ohio 43116 (Lot 55)
 - The existing water tap shall be changed to a single curb box and re-located to the right-of-way.
 - The existing sanitary sewer taps and cleanout shall be removed.
 - A single sanitary sewer tap shall be installed and used.
- 323 Genoa Road, Commercial Point, Ohio 43116 (Lot 92)
 - Before 323 Genoa Road (Lot 92) can get water service, the sanitary sewer tap currently servicing 325 Genoa Road (Lot 93) shall be removed and the sewer tap for 325 Genoa Road shall be re-located to the dedicated tap for 325 Genoa Road, or a new sanitary sewer tap shall be bored under Genoa Road and connected to the main line.
- 324 Genoa Road, Commercial Point, Ohio 43116 (Lot 213)
 - The existing double water taps and two curb boxes shall be removed.
 - A single water tap shall be installed and located in the right-of-way.
 - The existing double sanitary sewer taps shall be removed.
 - A single sanitary sewer tap shall be installed and used for 324 Genoa Road only.
- 409 Lockbay Road, Commercial Point, Ohio 43116 (Lot 51)
 - The water curb box shall be removed.
 - The water curb stop shall be capped.
 - A new water tap shall be made on the main water line via bore under the alleyway or Genoa Road.
- 412 Lockbay Road, Commercial Point, Ohio 43116 (Lot 4)
 - The water curb box shall be moved to the right-of-way.
- 428 Lockbay Road, Commercial Point, Ohio 43116 (Lot 12)
 - The water curb box shall be removed and the existing water tap capped.
 - A new water tap shall be made at the main water line.
 - An easement shall be granted to the Village around the existing shared sanitary sewer tap in order for sanitary sewer to be connected at the current location.
- 430 Lockbay Road, Commercial Point, Ohio 43116 (Lot 13)
 - The one-inch (1") shared water service shall be shortened into the right-of-way and shall service this Lot only.
 - If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.

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Exhibit A (continued)

- 432 Lockbay Road, Commercial Point, Ohio 43116 (Lot 14)
 - A new water tap shall be made at the main water line.
 - If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.
- 29 Parkview Avenue, Commercial Point, Ohio 43116 (Lot 32)
 - A new water tap shall be made on the main water line.
 - If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.
- 31 Parkview Avenue, Commercial Point, Ohio 43116 (Lot 31)
 - The water tap that is shared with the curb box at 29 Parkview Avenue shall be removed and capped at the time of removal. The existing water tap can then serve 31 Parkview Avenue.
 - The water curb box shall be moved into the right-of-way.
 - If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.
- 33 Parkview Avenue, Commercial Point, Ohio 43116 (Lot 30)
 - The water tap shared with the curb box 35 Parkview Avenue shall be removed and capped.
 - A new water tap shall be made on the main water line.
 - The existing sanitary sewer tap can be used in the existing position if an easement is granted to the Village.
- 37 Parkview Avenue, Commercial Point, Ohio 43116 (Lot 28)
 - The water tap shared with the curb box at 39 Parkview Avenue (Lot 27) shall be removed and capped
 - A new water tap shall be made on the main line.
 - If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.
- 41 Parkview Avenue, Commercial Point, Ohio 43116 (Lot 26)
 - The water curb box shall be moved to the right-of-way.
- 42 Parkview Avenue, Commercial Point, Ohio 43116 (No Lot number)
 - The water curb box shall be moved into the right-of-way.
- 30 Waterman Avenue, Commercial Point, Ohio 43116 (Lot 33)
 - No additional utility work necessary.
- 33 Waterman Avenue, Commercial Point, Ohio 43116 (Lot 45)
 - The water curb box shall be moved to the right-of-way.
 - If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.
- 35 Waterman Avenue, Commercial Point, Ohio 43116 (Lot 44)
 - The water tap currently shared with 37 Waterman Avenue (Lot 43) shall be dug up and capped.
 - A new water tap shall be made on the main water line, which will require a bore under the Alley or under Waterman Avenue.
 - The sanitary sewer tap currently shared with 37 Waterman Avenue (Lot 43) shall be moved to the right-of-way.
 - The existing sanitary sewer tap shall be capped.
- 41 Waterman Avenue, Commercial Point, Ohio 43116 (Lot 41)
 - The water tap currently shared with 43 Waterman Avenue (Lot 40) shall be dug up and capped.
 - A new water tap shall be made on the main water line, which will require a bore under the alley.
- 42 Waterman Avenue, Commercial Point, Ohio 43116 (Lot 39)
 - The water tap currently shared with 40 Waterman Avenue (Lot 38) shall be dug up and capped.
 - A new water tap shall be made on the main water line.

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A (continued)

- If an easement is granted to the Village, the existing sanitary sewer tap may be used in its current position.

4. Monitoring Reports. WJH shall submit monitoring reports to the Village apprising the Village on the progress that has made on each of the twenty-seven parcels listed in Section 1. The Monitoring Reports shall contain updates on the status of the construction on each of the parcels and include information on the progress with respect to each and every of the following areas of the construction for each and every parcel:

- Masonry/Foundations;
- Utilities (Water and Sewer), including updates on all requirements enumerated in Section 3;
- Framing;
- Roofing;
- Mechanicals (HVAC, Plumbing, and Electrical);
- Insulation;
- Drywall;
- Flooring;
- Siding; and
- Landscaping and Exterior.

Monitoring Reports shall be provided to the Village on the following dates:

- December 14, 2020;
- January 25, 2021;
- March 8, 2021; and
- April 19, 2021.

Nothing in this Section shall be construed to limiting WJH from providing additional Monitoring Reports on dates other than those listed in this Section. The Monitoring Reports shall be submitted to the Village, in writing, via certified mail, first-class mail, or e-mail, effective upon receipt, to the following on the dates listed above:

Allan D. Goldhardt
Mayor, Village of Commercial Point
10 West Scioto Street
P.O. Box 56
Commercial Point, Ohio 43116
a.goldhardt@commercialpointohio.gov

With a copy to: Joshua Cartee
Solicitor, Village of Commercial Point
Dinsmore & Shohl LLP
191 W. Nationwide Blvd., Suite 300
Columbus, Ohio 43215
joshua.cartee@dinsmore.com

5. Remedies. The Village retains all rights, powers, and remedies authorized by the Planning and Zoning Code of the Village of Commercial Point and the Ohio Revised Code. Specifically, and without limitation, pursuant to Section 1135.05(c) of the Planning and Zoning Code, the Village reserves the right to require WJH to demolish any structure not completed by the expiration date of the Certificate of Zoning Compliance extension described in Section 1 of this Agreement and to return the property to its original state prior to the issuance of the Certificate of Zoning Compliance within thirty (30) calendar days of the Certificate's expiration.

6. Good Faith. The Parties, in complying with their obligations under the terms and conditions of this Agreement, shall each adhere to the covenants of good faith and fair dealing.

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A (continued)

7. Entire Agreement. This Agreement is the entire agreement and understanding between the Village and WJH with respect to the properties owned by WJH located within the Genoa Crossing subdivision. All other prior agreements, verbal or otherwise, are invalid. This Agreement shall not be modified unless agreed to in writing by the Village Council and WJH.

8. Effective Date. The Village and WJH acknowledge that this Agreement must be approved by formal action of the Council of the Village as a condition for this Agreement to take effect. This Agreement shall go into effect upon such formal action of the Council of the Village and the signature of the parties below. This Agreement may be executed in counterparts or duplicate signature pages, each of which when so executed and delivered will be an original, with the same force and effect as if all required signatures were contained in a single original instrument.

9. Governing Law. This Agreement shall be governed by the laws of the State of Ohio.

[Signature Pages Follow]

ORDINANCE 2021-16 (AS AMENDED)

Exhibit A (continued)

IN WITNESS WHEREOF, and consideration of the foregoing, the parties hereto have set their hand and seals, and have executed this Agreement on the day and year first above written.

ATTEST:

By: _____

VILLAGE OF COMMERCIAL POINT

By: _____

Title: Mayor

Date: _____

By: _____

Title: Village Administrator

Date: _____

By: _____

Title: Planning and Zoning Administrator

Date: _____

ATTEST:

By: _____

WJHOH LLC (WJH LLC),
a Delaware limited liability company

By: _____

Title: _____

Date: _____

FISCAL OFFICER CERTIFICATION:

Wendy Hastings
Fiscal Officer, Village of Commercial Point

ACCEPTED AS TO FORM:

Josh Cartee
Solicitor, Village of Commercial Point